

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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| DePuy Mitek, Inc. a Massachusetts Corporation |)))) |) |
| Plaintiff, |) |) |
| v. |) | Civil Action No. 04-12457 PBS |
| Arthrex, Inc. a Delaware Corporation, <i>et al.</i> |))) |) |
| Defendants. |) |) |

**NOTICE OF WITHDRAWAL OF
MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE AS
UNTIMELY DEPUY MITEK'S RESPONSE TO DEFENDANTS' OBJECTIONS TO
MAGISTRATE'S ORDER GRANTING DEPUY MITEK, INC.'S MOTION TO
PRECLUDE ARTHREX, INC. AND PEARSALLS, LTD. FROM SUPPLEMENTING
THEIR EXPERT REPORTS AND DEPOSITIONS, OR IN THE ALTERNATIVE,
MOTION TO REPLY THERETO**

Defendants Arthrex, Inc. (“Arthrex”) and Pearsalls, Ltd. (“Pearsalls”) (together, “defendants”) hereby withdraw their memorandum in support of their motion to strike as untimely DePuy Mitek, Inc.’s (“DePuy Mitek’s”) response to defendants’ objections to Magistrate’s Order granting DePuy Mitek’s motion to preclude defendants from supplementing their expert reports and depositions, or in the alternative, motion to reply thereto (Docket Entry 95).

Dated: December 13, 2006

Respectfully submitted,

By: /s/Salvatore P. Tamburo

Charles W. Saber

Stephen A. Soffen

Salvatore P. Tamburo

DICKSTEIN SHAPIRO LLP

1825 Eye Street, N.W.

Washington, D.C. 20006-5403

Telephone: (202) 420-3116

Facsimile: (202) 420-2201

Christopher Weld, Jr. (BBO # 522230)

Raymond P. Ausrotas (BBO # 640315)

TODD & WELD LLP

28 State Street, 31st Floor

Boston, MA 02109

Telephone: (617) 720-2626

Facsimile: (617) 227-5777

Counsel for Defendants

Arthrex, Inc. and Pearsalls Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Withdrawal of Memorandum in support of Defendants' Motion to Strike as Untimely DePuy Mitek's Response to Defendants' Objections to Magistrate's Order Granting DePuy Mitek, Inc.'s Motion to Preclude Arthrex, Inc. and Pearsalls, Ltd. From Supplementing Their Expert Reports and Depositions, or in the Alternative, Motion to Reply Thereto was served via the Court's email notification system on the following counsel for Plaintiff on the 13th day of December 2006:

Lynn A. Malinoski
Woodcock Washburn, LLP
One Liberty Place, 46th Floor
Philadelphia, PA. 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

Daniel J. Gleason
Nutter McClellan & Fish LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604
Telephone: (617) 439-2000
Facsimile: (617) 310-9000

/s/Salvatore P. Tamburo